

WEST CHICAGO INTERGOVERNMENTAL FORUM
December 2, 2011
Meeting Minutes

ATTENDEES

Barbara Magel, Counsel for Local Communities
Jamie Geils, WBK Associates, Local Communities
Don Feld, Thorium Action Group
Mark Krippel, Weston (WCERT)
Mike Savage, Arcadis
Tony Charlton, DuPage County
Jesse DeMartini, DuPage County Forest Preserve District
John Oldenburg, DuPage County Forest Preserve District
John Coakley, City of Warrenville
Kelly Grahn, IEMA
Mary Fleming, DuPage County State's Attorney's Office
Gerald Karr, Illinois Attorney General's Office
Tim Fischer, U.S. EPA, Superfund
David Seely, U.S. EPA, Superfund
Mary Fulghum, U.S. EPA Regional Counsel

GENERAL TOPICS

Mary Fulghum began the meeting with an update on the Anadarko litigation. Mary said that the trial date was still scheduled for May 2012, but an important hearing had been held on November 29, 2011, regarding whether or not there is a cap on the damages recoverable from Anadarko. Anadarko argued that the damages in the case were limited to the amount of unpaid environmental and tort bankruptcy claims. Anadarko went further and argued that the bankruptcy settlement settled those claims, thus the cap had been met and the suit should not go forward. The Judge said he would rule on this motion very quickly. Mary said that the ruling should come within 60 days, possible even 30 days.

Barb Magel asked if discovery was stayed in the interim. Mary said that fact discovery is closed and expert reports have already been exchanged. Mary added that the Judge suggested that the parties explore mediation, but it appeared that Anadarko was not interested in mediation at this time.

KRESS CREEK/WEST BRANCH DUPAGE RIVER SITE

Tim began the Kress Creek site update by commending the West Chicago Environmental Response Trust, Arcadis, and Severson for a very successful construction season in 2011 in Reach 8A. Tim said that all of the work planned for 2011 in Reach 8A had been completed two weeks ahead of schedule and under budget.

Tim said that the excavation of Targeted Material in Reach 8A for 2011 was completed on November 2, and the last of that material was shipped to Energy Solutions on November 10. He added that demobilization was complete and that a total of 87 rail cars of Targeted Material had been shipped this year. Tim said this equates to about 8,000 cubic yards of material.

Tim said a post-construction inspection was conducted at Reach 7 on November 22 to verify that the required tree and shrub plantings were in place. This inspection is conducted to determine the start of the maintenance and monitoring period for the Reach. A pre-certification inspection was also performed that day for Reaches 5C and 5D in preparation for issuing the Certification of Completion for these Reaches. A punch list of maintenance items was created so that the certification can be issued when these items are completed. Tim said that Reaches 3B, 4, 5A, 5B, 5C and 5D are all on track for a Certification of Completion in late spring. Tim added that the Sewage Treatment Plant will be eligible for deletion from the National Priorities List when the Certification of Completion is issued for Reaches 5A and 5B.

Tim said that a meeting was held at the DuPage County offices to discuss the overlap between the flood control project being conducted by the County and the restoration in Reach 8A south of Warrenville Road. A site tour was also conducted. Tim said that County staff, the US Army Corps of Engineers and EPA had reached an understanding regarding a possible waiver of maintenance and monitoring requirements in the limited part of Reach 8A affected by the flood control project.

Tim said that the Kress Creek cleanup team had been discussing the design for Reach 8B in hopes that the work would be completed in 2012. Tim said that the team is leaning toward using a temporary drainage channel instead of using bypass pumping as was used in Reaches 5C and 7. Tim said that it should result in cost savings and be a more efficient method for removing the Targeted Material in Reach 8B.

Finally, Tim mentioned a meeting was held in the EPA offices to discuss the West Chicago Environmental Response Trust (WCERT) budget for 2012. Tim said that the WCERT has recommended that the most efficient way to complete the Kress Creek/West Branch cleanup is to conduct all remaining work next year. This work would consist of Bower Elementary School, Route 59 and Reach 8B. Tim said that EPA agrees with that assessment, but the limiting factor is the timing of available cleanup funds. Tim said the budget shows that the WCERT would require \$22 million to complete all of the work in 2012. The WCERT has shown that it can come up with about \$15 million in leftover funds from 2011, the DOE reimbursement coming in January 2012, and some money it can borrow from the Trust Administrative Account, which is allowed under the Trust Agreement. This results in a shortage of \$7.2 million for completing the work. Tim verified this week that there is \$3 million in the Kress Creek special account at EPA, and he sent a message to his management to brief them on the funding situation. Tim said that there is a meeting scheduled for next week to discuss Kress Creek with EPA headquarters. Tim said the goal of the meeting would be to convince EPA headquarters to provide funding from Superfund to complete all of the work in 2012 and achieve construction completion. Tim added that the site is still before the EPA Risk-Based Prioritization Panel, but the panel does not have a budget yet for 2012. Therefore, they don't know how much money is available for disbursement to cleanups around the country. Tim reiterated that he would stress to management and EPA headquarters that we would need to know by late February or March whether funding is forthcoming to know what work to plan for in 2012. Mary Fulghum asked when the panel typically makes its funding decisions. Tim said that usually they are made in April or May, so this would have to be a special case.

Gerald Karr asked how long the overall cleanup would take if the project were only able to complete the Bower Elementary School and Route 59 this year. Tim said that the timing of the reimbursements would dictate that the project would have to skip a year after 2012 before

sufficient funds would be in hand to complete Reach 8B, so it would become a three-year project with completion in 2014.

RESIDENTIAL AREAS SITE

David Seely said that sampling began on residential properties in late September and early October. David said that more than 300 borings had been installed for gamma logging and that 11 of those were indicating areas that would require further evaluation. David said that sampling had been completed on four properties, and that 10 of the 11 borings needing followup were on one property grouped together.

David said this week he had been working to facilitate further core sampling and had been checking with the state lab to verify that they had sufficient capacity to analyze the samples. David said he hoped to be in the field by the end of next week for the followup sampling. He said that after about two more weeks, sampling would have to be suspended for the winter. David said that the goal was to have these four properties completely characterized before sampling was shut down.

David said that EPA was contacted by the owner of one of the properties that was a "no access" property. The owner indicated that they were now interested in having their property tested. David said that walkover and basement surveys were completed on this property, and the survey reports had just been received by EPA. David said that he would be following up with the property owner with the results soon. David said that initial results do not show any contamination on this property.

Barb Magel asked if David had a final number of properties that would need to be sampled in 2012 to complete the project. David said that he had not yet finalized that number, since he was focused on getting the fieldwork completed.

Kelly Grahn asked for more information regarding the 11 borings needing followup. David said that the downhole gamma logging results were above the threshold used to trigger additional investigation, and that a core sample would now have to be collected from these locations. David said that EPA had not been anticipating further sampling this year, but because of these gamma logging results he had been working to get that sampling done as quickly as possible.

Barb Magel asked for verification that we were now down to two "no access" properties. David said that was correct, and that these two are both owned by the same person.

Mark Krippel asked if David had a schedule in mind for completing his assessment of the universe of sites needing further evaluation. David said that he planned to complete his review over the winter and also to determine whether any further basement surveys are necessary. Mark asked if it could be completed early in 2012. David said the goal would be to wrap things up by June 2012. Mark said that if the Residential Areas site could be wrapped up by the summer of 2012, there is a significant amount of money that could potentially be transferred to the Kress Creek cleanup later in 2012. David said it was his intention to complete his review by then anyway.

Barb Magel asked if EPA would be able to complete sampling on the remaining "no access" properties this winter if the City of West Chicago were to obtain access. David said it would be dependent on timing. He said EPA could probably do it in the next week or two, but any later

would probably be prohibited by weather. Kelly Grahn pointed out that the process involves an initial walkover survey, and that could not be performed with snow on the ground. David agreed. Barb Magel asked if the limiting factor was snow or cold. David said that actually both factors could affect results. Barb said that the City of West Chicago is trying to obtain one of these properties and could potentially grant access to EPA to conduct sampling this winter. Mary Fulghum asked if either of the properties had basements. Barb said she didn't know, but David said he thought at least one of them did. David said that he would have to know in the next week if the City were able to grant access for sampling in order to have a chance to complete the effort this season.

Barb Magel added that she was supportive of Mark Krippel's suggestion of a schedule for completing the residential sites. She said that the City of West Chicago is incredibly anxious to see the Residential Areas site completed, especially the Mayor. Barb suggested that EPA should try to complete them even earlier than the late summer if possible so that funding is available as early as possible for Kress Creek.

OTHER ISSUES

Update on NOAA Grant Projects

John Oldenburg said that the Warrenville Dam project had completed the first phase and the dam had been removed. John said that the planting of more than 1,200 trees and shrubs had been completed and about half of the 90,000 plug plantings had been completed. John said that agreements had been reached with Arcadis on how to handle areas of Reach 7 restoration that were affected by the NOAA project.

NEXT FORUM MEETING

The next meeting of the West Chicago Intergovernmental Forum is scheduled for **Friday, February 3, 2012, at 10 a.m.** in West Chicago City Council Chambers, West Chicago.